

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 202004780	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 06/28/2020 4:30 PM	Location of Incident: MacDougal Street and Washington Square Park	Precinct: 06	18 Mo. SOL 12/28/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 07/01/2020 6:35 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 07/01/2020 6:35 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Anthony Ruggiero	25666	937454	122 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SSA Daniel Houlahan	00821	925472	006 PCT
2. LT Gary Giersbach	00000	915792	006 PCT
3. POM Roodly Demorcy	03649	961736	075 PCT
4. POM Jonathan Dones	27390	948203	006 PCT
5. POM Matthew Contant	09703	960391	006 PCT
6. SGT Terrance Smalls	02703	939481	075 PCT
7. POF Carolina Lugo	27213	948239	013 PCT
8. CPT Tommy Keung	00000	942001	013 PCT
9. POM Robert Janison	11873	956772	006 PCT
10. POF Brenda Olivierre	08944	950977	SRG 2
11. POM Luis Sanchez	11910	952208	SRG 2
12. POM Armando Rivas	02833	931926	SRG 2
13. POF Jacklyn Castillo	10531	960340	SRG 2
14. POM Justin Pichon	21319	959894	SRG 3
15. SSA Jose Vega	03773	916855	DIS CTL

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Ruggiero	Force: Police Officer Anthony Ruggiero struck § 87(2)(b) with a baton.	

Case Summary

On July 1, 2020, § 87(2)(b) filed this complaint via the CCRB website.

Due to media coverage and the volume of views that the § 87(2)(b) video associated with this incident (BR03) received, this case was marked as a sensitive case on July 7, 2020.

On June 28, 2020, § 87(2)(b) attended the Queer Liberation March. After observing civilians and officers engaging in physical contact, at approximately 4:30 p.m., § 87(2)(b) walked to the intersection of Washington Square Park North and Macdougall Street, where she stood behind a marked police van. While standing behind the van, PO Anthony Ruggiero of the 122nd Precinct approached § 87(2)(b) and pushed her with his baton, causing her to fall to the ground (**Allegation A: Force**, § 87(2)(g)).

The investigation received Body-Worn Camera (BWC) footage from the NYPD's Legal Bureau (BR12-28) and personal digital device footage recorded by twitter user @gloriosio4ny and obtained via the New York Times (BR03), as well as footage provided by § 87(2)(b) and whose recording source is unknown (BR49), and the footage was transcribed (BR04;29-45,50).

Findings and Recommendations

Allegation (A) Force: Police Officer Anthony Ruggiero struck § 87(2)(b) with a baton.

It is undisputed that PO Ruggiero struck § 87(2)(b) with a baton held in both of his hands held laterally across his body, causing her to fall to the ground.

In her testimony to the CCRB (BR02), § 87(2)(b) stated she attended a march that ended at Washington Square Park. At approximately 4:30 p.m., § 87(2)(b) approached a marked police van, which was parked on Macdougall Street and facing south. She stood slightly to the street-side of the van. § 87(2)(b) stood behind the van for 30 seconds. As she stood behind the van, PO Ruggiero walked from around the street-side of the van. There were three or four unidentified civilians in § 87(2)(b)'s vicinity. As PO Ruggiero came around the side of the van, PO Ruggiero said something to § 87(2)(b) at a high volume. § 87(2)(b) did not recall what PO Ruggiero said. As PO Ruggiero yelled at her, § 87(2)(b) did not recall if she did anything physically or said anything. PO Ruggiero turned around and yelled at the other people in § 87(2)(b)'s immediate vicinity.

Seconds after initially yelling at her, PO Ruggiero turned towards § 87(2)(b). Using a baton held between his hands, PO Ruggiero struck § 87(2)(b)'s left shoulder between her shoulder and bicep area one time. § 87(2)(b) fell back, striking the rear of her thigh and left knee against her bicycle. § 87(2)(b)'s backpack and left elbow struck the ground. § 87(2)(b)'s bicycle landed on the ground. § 87(2)(b) sustained bruises to her right thigh, left elbow, left forearm, and left knee as a result of falling to the ground, photographs of which she provided to the CCRB (BR07-BR11).

In PO Ruggiero's CCRB testimony (BR01), he stated that during the course of the incident, he observed multiple incidences of civilians surrounding police vans and attempting to prevent them from leaving the area. PO Ruggiero described two such scenarios. Firstly, a marked van was surrounded by protesters, and an unidentified captain in the vicinity of this van instructed officers to run forward towards the protesters, which cleared a pathway for the van to leave the area. A second unidentified captain in the vicinity of a second marked van removed an injured officer and a prisoner from the van and escorted them to a third marked van, which was not surrounded.

In the course of movement from the second van to the third van, an unidentified civilian punched Sgt. Stephen Mazzaro, of the 122nd Precinct, in the face. Sgt. Mazzaro apprehended this civilian. PO Ruggiero felt, due to the rapidly converging civilians, the fact that police had been trapped before, and the success of previous police action to clear paths of egress for police vehicles, that rapid action to secure paths of egress for police vehicles was necessary to ensure officer and prisoner safety. Two prisoners, one of whom was the civilian who had punched Sgt. Mazzaro in the face and one of whose arrest circumstances PO Ruggiero was unaware, and an injured police officer were supposed to be transported by the van he approached, and he proceeded around the street-side of the van to ensure that civilians did not block the van's path behind it, which, based on the fact that PO Ruggiero observed a large civilian crowd in front of the van, would have to reverse to leave. PO Ruggiero observed § 87(2)(b) standing one to two feet from the rear of the van, blocking its path rearward. He may have issued instructions to § 87(2)(b) but did not recall what if anything he said. He pushed § 87(2)(b) with his baton held in both hands to attempt to remove her from the path of the van. PO Ruggiero did not articulate any other basis for pushing § 87(2)(b). His push of § 87(2)(b) was consistent with the manner of using a baton to clear space in which had been trained: to use the baton held horizontally across his body and extend his arms towards a civilian, with the contact with the civilian with the baton designed to move a civilian back from the officer. PO Ruggiero did not intend to push § 87(2)(b) to the ground.

Cell phone footage, which is eleven seconds in its entirety, shows that, at the time of PO Ruggiero's use of force, there were not civilians in the immediate vicinity directly behind the van other than § 87(2)(b). This video does not capture PO Ruggiero saying anything in the time immediately prior to his use of force. Immediately after pushing § 87(2)(b) to the ground, PO Ruggiero turns away from her and walks around the right side of the van, towards the van's door (BR03). The footage § 87(2)(b) provided captures the incident from a different angle but does not depict any footage distinct from that referenced above.

Patrol Guide Procedure 221-02 states that MOS will use only the reasonable force necessary to gain control or custody of a subject. It states that in determining whether the use of force is reasonable, members of service should consider the following factors: the nature and severity of the crime/circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; the number of subjects compared to the number of MOS; the size, age, and condition of the subject in comparison to the MOS; a subject's violent history if known; the presence of a hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic which would affect pain tolerance or increase the likelihood of violence (BR06).

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation Not Pleaded

In her interview, § 87(2)(b) stated she felt what she believed was pepper spray in the air but did not see who, if anyone, officer or otherwise, deployed the pepper spray. While video footage obtained by the investigation depicts officers who suffered likely exposure to pepper spray, neither their relationship to § 87(2)(b)'s statement nor the attribution of pepper spray deployment to any individual could be established. As the actual use of pepper spray was not documented either in any statements or video, a corresponding pepper spray allegation was not pleaded.

Civilian and Officer CCRB Histories

- PO Ruggiero has been a member of service for 15 years and has been the subject of two CCRB complains and two allegations, neither of which was substantiated. § 87(2)(g)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR05).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- Per the New York City Office of Court Administration, as of September 24, 2020, § 87(2)(b) has not been convicted of a crime in New York City (BR47).
- § 87(2)(b) filed a Notice of Claim regarding this incident with the City of New York. A 50H hearing was held on § 87(2)(a) § Gen. Mun. 50-h(3) (BR 48).

Squad No.: 12

Investigator:	<u>Zachary Herman</u>	<u>Investigator Zachary Herman</u>	<u>10/28/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Chris Anderson</u>	<u>SI Chris Anderson</u>	<u>10/28/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date